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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/612,868

07/02/2003

Samuel Wesley Crouch

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EXAMINER

LOWE, MICHAEL S

ART UNIT

PAPER NUMBER

3652

DATE MAILED: 12/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/612,868

Applicant(s)

CROUCH, SAMUEL WESLEY

Examiner

M. Scott Lowe

Art Unit

3652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 28 September 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 July 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

***Election/Restrictions***

Applicant's election without traverse of invention I, claims 1-15, in the reply filed on 9/28/05 is acknowledged.

***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the motorcycle, vehicle, receiver hitch, ground, wheel, tire, brackets mounted to the receiver hitch, and foot pegs must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner,

the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters "19" and "21" have both been used to designate slot (page 6). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: frame 20 (page 6). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be

notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 3,4,6,8,9,11,12,13,15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Re claims 8,15, these claims contradict the claims they depend from and are therefore indefinite. The carrier rail is claimed to remain parallel to the ground, then in claims 8 & 16 it is claimed to be perpendicular to the ground.

Claims 3,11 recite the limitation "the jack forces" in line 2. There is insufficient antecedent basis for this limitation in the claim. For sake of examination it is assumed applicant meant "a lifting force".

Claim 4 recites the limitation "the wheel" in line 3. There is insufficient antecedent basis for this limitation in the claim. For sake of examination it is assumed "a wheel of the motorcycle" was meant instead.

Claim 4 recites the limitation "the tire" in line 4. There is insufficient antecedent basis for this limitation in the claim. For sake of examination it is assumed "the wheel of the motorcycle" was meant instead.

Claim 6 recites the limitation "the foot pegs" in line 2. There is insufficient antecedent basis for this limitation in the claim. For sake of examination it is assumed "a pair of motorcycle foot pegs" was meant instead.

Claim 12 recites the limitation "the wheel" in line 2. There is insufficient antecedent basis for this limitation in the claim. For sake of examination it is assumed "a wheel of the motorcycle" was meant instead.

Claim 12 recites the limitation "the tire" in line 3. There is insufficient antecedent basis for this limitation in the claim. For sake of examination it is assumed "the wheel of the motorcycle" was meant instead.

Claim 13 recites the limitation "the foot pegs" in line 2. There is insufficient antecedent basis for this limitation in the claim. For sake of examination it is assumed "a pair of motorcycle foot pegs" was meant instead.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1,3,8-11,15 are rejected under 35 U.S.C. 102(e) as being anticipated by Williams (US 6,579,055).

Re claim 1, Williams teaches a motorcycle lifting device and carrier rack assembly 10 for lifting and carrying a motorcycle on a vehicle, the vehicle having a receiver hitch 14,16, the lifting device and carrier rack assembly comprising:

an elongated carrier rail 50 secured to the receiver hitch 14 and alternately movable from a stowed position to a deployed position, the carrier rail receiving the motorcycle;

and

lifting and lowering means 34 (etc.) for lifting the carrier rail from the deployed position to the stowed position and lowering the carrier rail 50 from the deployed position to the stowed position;

wherein the carrier rail remains substantially parallel to the ground in both the stowed position and the deployed position and during lifting and lowering of the carrier rail.

Re claims 3,11, Williams teaches the lifting and lowering means 34 (etc.) maintains a substantially vertical position during lifting and lowering thereby allowing a lifting force to be applied in a desired direction.

Re claims 8,15, Williams teaches (figure 12) the carrier rail 50 rotatable to a position substantially perpendicular to the ground when in the stowed position.

Re claim 9,10, Williams teaches a portable motorcycle carrier 10 for carrying a motorcycle on a vehicle 12, the carrier comprising:

a mounting frame (various, see figures) releasably secured to the vehicle 12;

a lift mechanism 34 (etc.) secured to the mounting frame;

a carrier rail 50 for receiving the motorcycle and movable between a deployed position and a stowed position;

connection means (54,etc.) secured between the carrier rail 50 and the lift mechanism 34 (etc.) for maintaining the carrier rail 50 in a substantially horizontal position when deployed, stowed, and at any position therebetween; and

securement means 84,50 on the carrier rail 50 for releasably securing the motorcycle to the carrier rail.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Williams (US 6,579,055) in view of McLemore (US 6,244,483).

Re claim 2, Williams teaches brackets (various (not numbered, see figures 4,13)) mounted to the receiver hitch 14,16, a cross bar 30,40 (etc.), mounting tubes 42,28,22 (etc.) secured to the cross bar and slidable into the brackets; and safety pins 82,etc. insertable through the mounting tube into the brackets. Williams does not mention u-bolts. McLemore teaches use of adjustable u-bolts 76 (figure 1) to secure items such as brackets 74 and mounting tubes 58 together in an adjustable and releasable fashion. It would have been obvious to one of ordinary skill in the art at the time the invention was



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made to have modified Williams by the general teaching of McLemore to use adjustable u-bolts for any connections (including between brackets and the hitch) in order to releasably secure the items together to allow for easier maintenance.

Claims 4,5,12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Williams (US 6,579,055) in view of Lloyd (US 6,968,986).

Re claims 4,12, Williams teaches the carrier rail has a first end and a second end, and a wheel chock (the raised section of the rail is equivalent to applicants structure) for receiving the wheel of the motorcycle. Williams does not mention an over-center actuator cooperating with a pull down rod. Lloyd teaches a pull down rod 50 positioned over the wheel chock and positionable over the tire and an over-center actuator 34 cooperating with the pull down rod for securing the pull down rod over the tire of the motorcycle in order to limit movement of the tire (column 4). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Williams by the general teaching of Lloyd to have a pull down rod positioned over the wheel chock and positionable over the tire and an over-center actuator cooperating with the pull down rod for securing the pull down rod over the tire of the motorcycle in order to limit movement of the tire.

Re claim 5, Williams teaches the carrier rail has a first side wall and a second side wall, the first and second side walls extending from the first end of the carrier rail to the second end of the carrier rail, the wheel chock being positioned between the first side wall and the second side wall.

Claims 6,7,13,14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Williams (US 6,579,055) in view of Williams et al. (US 6,729,827).

Re claims 6,13 Williams teaches pull down straps (tie downs) for receiving any part of the motorcycle in order to hold it down but is silent on over-center actuators cooperating with the pull down straps but not an over-center actuator. Williams et al. teaches pull down straps 40 and an over-center actuator 30 cooperating with the pull down straps for better securing a vehicle (columns 2-3). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Williams by the general teaching of Williams et al. to have pull down straps 40 and an over-center actuator 30 cooperating with the pull down straps for better securing a motorcycle (at any point thereof).

Re claim 7, Williams teaches the tie downs being adjustable 84 adjustable along at least a portion of the carrier rail 50. Williams et al. also teaches the over-center actuator 30 being adjustable along at least a portion of the carrier rail. Therefore Williams as already modified by Williams et al. in claim 6 would have the position of the pull down strap and the over-center actuator adjustable along at least a portion of the carrier rail.

Re claim 14, Williams teaches the tie downs being adjustable 84 adjustable along at least a portion of the carrier rail 50. Williams et al. also teaches the over-center actuator 30 being adjustable along at least a portion of the carrier rail. Therefore Williams as already modified by Williams et al. in claim 13 would have the position of

the pull down strap and the over-center actuator adjustable along at least a portion of the carrier rail.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Scott Lowe whose telephone number is (571) 272-6929. The examiner can normally be reached on 6:30am-4:30pm M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen Lillis can be reached on (571) 272-6929. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

msl



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